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 of the State of California  
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 4 Telephone: (619) 237-7811  
 5 Attorneys for Complainant

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 7  
 8 BEFORE THE  
 9 DIVISION OF MEDICAL QUALITY  
 10 BOARD OF MEDICAL QUALITY ASSURANCE  
 11 DEPARTMENT OF CONSUMER AFFAIRS  
 12 STATE OF CALIFORNIA  
 13

14 In the Matter of the Accusation )  
 Against: ) No. D-3074  
 15 )  
 JAMES D. KUNZMAN, M.D. )  
 16 4202 Genesee, Suite 409 )  
 San Diego, California 92117 )  
 17 )  
 Physician's and Surgeon's )  
 18 Certificate No. C 021489 )  
 19 )  
 Respondent. )  
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21 IT IS HEREBY STIPULATED AND AGREED by and between the  
 22 parties to the above-entitled matter that the following  
 23 allegations are true.

24 1. Stephen R. Wilford, complainant herein and Acting  
 25 Executive Director of the Board of Medical Quality Assurance of  
 26 the State of California, is represented by John K. Van De Kamp,  
 27

1 Attorney General of the State of California by Barry D.

2 Ladendorf, Deputy Attorney General.

3 2. James D. Kunzman, M.D. (hereinafter "respondent")  
4 is represented by Gary Fields, Esq., who has been retained as  
5 his attorney in regard to the administrative action herein and  
6 that the respondent has counseled with Mr. Fields concerning the  
7 effect of this stipulation, which the respondent herein has  
8 carefully read and fully understands.

9 3. Respondent has received and read the accusation  
10 which is presently on file and pending as Case No. D-3074 before  
11 the Division of Medical Quality of the Board of Medical Quality  
12 Assurance, State of California.

13 4. Respondent understands the nature of the charges  
14 alleged in the above-mentioned accusation and that said charges  
15 and allegations would constitute cause for imposing discipline  
16 upon respondent's medical license heretofore issued by the Board  
17 of Medical Quality Assurance.

18 5. Respondent and his counsel are aware of each of  
19 respondent's rights, including the right to a hearing on the  
20 charges and allegations, the right to confront and cross-examine  
21 witnesses who would testify against him, the right to present  
22 evidence in his favor and call witnesses on his behalf, or  
23 to testify himself, his right to contest the charges and  
24 allegations, and any other rights which may be accorded to him  
25 pursuant to California Administrative Procedure Act (Gov. Code §  
26 11500, et seq.) his right to reconsideration, review by the  
27 superior court and to appeal to any other court; that respondent



1 revocation is stayed and respondent is placed on probation for 5  
2 years on the following terms and conditions:

3           A. Within 60 days of the effective date of this  
4 decision, respondent shall take and pass an oral clinical  
5 examination in general orthopedics and orthopedic surgery  
6 to be administered by the Division or its designee. If  
7 respondent fails this examination, respondent must wait  
8 three months between re-examinations, except that after  
9 three failures respondent must wait one year to take each  
10 necessary re-examination thereafter. The Division shall  
11 pay the cost of the first examination and respondent shall  
12 pay the costs of any subsequent examinations.

13           Respondent shall not practice medicine until  
14 respondent has passed this examination and has been so  
15 notified by the Division in writing.

16           B. Within 90 days of the effective date of this  
17 decision, and on an annual basis thereafter, respondent  
18 shall submit to the Division for its prior approval an  
19 educational program or course related to orthopedics and  
20 orthopedic surgery, which shall not be less than 40 hours  
21 per year, for each year of probation. This program shall  
22 be in addition to the Continuing Medical Education  
23 requirements for re-licensure.

24           C. During probation, respondent is (except for  
25 making a preliminary diagnosis) prohibited from  
26 diagnosing, treating or consulting on his or any other  
27 patient who has a bony tumor or cancer. If respondent  
28 believes that any of his patients have a bony tumor or a

1 cancer, he shall refer that patient to the appropriate  
2 medical specialist for a complete diagnostic workup and/or  
3 treatment.

4 Respondent shall maintain a log of all such  
5 referrals. The log shall include the patients name and the  
6 name of the physician to whom the patient was referred.  
7 This log shall be made available for inspection by the  
8 Division or its designee.

9 D. Respondent shall obey all federal, state and  
10 local laws, and all rules governing the practice of  
11 medicine in California.

12 E. Respondent shall submit quarterly declarations  
13 under penalty of perjury on forms provided by the Division,  
14 stating whether there has been compliance with all the  
15 conditions of probation.

16 F. Respondent shall comply with the Division's  
17 probation surveillance program.

18 G. Respondent shall appear in person for interviews  
19 with the Division's medical consultant upon request at  
20 various intervals and with reasonable notice.

21 H. In the event respondent should leave California  
22 to reside or to practice outside the State, respondent must  
23 notify in writing the Division of the dates of departure  
24 and return. Periods of residency or practice outside  
25 California will not apply to the reduction of this proba-  
26 tionary period.

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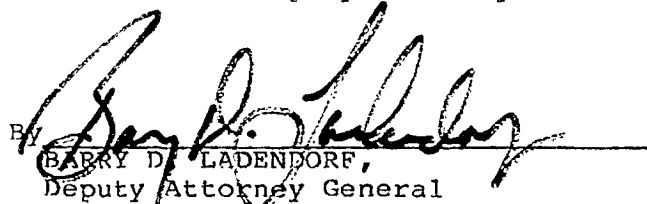
1 I. Upon successful completion of probation, respond-  
2 ent's certificate will be fully restored.

3 J. If respondent violates probation, in any respect,  
4 the Division, after giving respondent notice and the  
5 opportunity to be heard, may revoke probation and carry out  
6 the disciplinary order that was stayed. If an accusation  
7 or petition to revoke probation is filed against respondent  
8 during probation, the Division shall have continuing  
9 jurisdiction until the matter is final, and the period of  
10 probation shall be extended until the matter is final.

11 I concur in the stipulation and order.

12 Dated: 11/28/83

13 JOHN K. VAN DE KAMP, Attorney General  
14 of the State of California  
BARRY D. Ladendorf,  
15 Deputy Attorney General

16  
17 By   
18 BARRY D. LADENDORF,  
Deputy Attorney General

19 Attorneys for Complainant  
20 Board of Medical Quality Assurance  
State of California

21  
22 I concur in the stipulation and order.

23 Dated: 11/18/83

24  
25   
26 Attorney for Respondent

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1 I have read the above stipulation fully and have  
2 discussed it with my counsel. I understand that by its terms I  
3 will be waiving certain rights accorded me under California law.  
4 I also understand that by its terms the Board of Medical Quality  
5 Assurance will issue a Decision and Order on this stipulation  
6 whereby my license to practice medicine will be subject to  
7 certain terms and conditions. I agree to the above stipulation  
8 for settlement.

9 Dated:

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11   
12 JAMES D. KUNZMAN, M.D.  
13 Respondent

14 The foregoing is adopted as the decision of the  
15 Division of Medical Quality of the Board of Medical Quality  
16 Assurance in this matter and shall be effective on the 19th  
17 day of March, 1984.

18 IT IS SO ORDERED this 16th day of February,  
19 1984.

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22 DIVISION OF MEDICAL QUALITY  
23 BOARD OF MEDICAL QUALITY ASSURANCE  
24 STATE OF CALIFORNIA

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27 BDL:sol

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13 Against: )  
14 JAMES D. KUNZMAN, M. D. )  
4202 Genesee, Suite 409 ) ACCUSATION  
15 San Diego, California 92117 )  
16 Physician's and Surgeon's )  
Certificate No. C 021489 )  
17 Respondent. )  
18

19 Complainant, Vernon Leeper, alleges:

20 1. He is the Program Manager--Enforcement for the  
21 Board of Medical Quality Assurance and makes and files this  
22 accusation in his official capacity.

23 2. At all times herein mentioned James D. Kunzman,  
24 M.D. (respondent) held physician's and surgeon's certificate No.  
25 C 021489.

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STATUTES

3. Business and Professions Code section 2220 (all references are to the Bus. & Prof. Code unless otherwise stated) provides the Division of Medical Quality (Division) may take action against all persons guilty of unprofessional conduct in violation of the Medical Practice Act.

4. Section 2227 provides, in part, that any licensee found guilty of unprofessional conduct may have his or her license revoked, suspended or placed on probation.

5. Section 2234 of the Code provides in pertinent part that the Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct which includes but is not limited to:

- "(b) Gross negligence.
- "(d) Incompetence.
- "(e) The commission of any act involving dishonesty . . . ."

H[REDACTED] MATTER

6. At all times herein mentioned, L[REDACTED] H[REDACTED] was a patient of and under the care and treatment of respondent.

7. On or about May 3, 1979, H[REDACTED] went to respondent's office with a complaint of low back pain. Respondent conducted an examination, took x-rays and prescribed Darvoset-N, heat and restriction on activities.

8. On May 24, 1979, H[REDACTED] returned to respondent's office. Respondent took x-rays of H[REDACTED]'s hip and told

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1 H[REDACTED] that there was a cancerous growth or tumor (osteoma) on  
2 the left hip which should be removed immediately.

3 9. On May 31, 1979, respondent performed major  
4 surgery on Hemmerly at Clairemont Community Hospital.  
5 Respondent described the procedure as an "excision of the tumor."  
6 In truth and in fact, respondent removed a major portion of the  
7 normal ischial tuberosity and did not locate or remove the  
8 tumor. Respondent never advised the patient of this error.

9 10. Respondent is guilty of gross negligence in  
10 violation of section 2234(b) by reason of the following:

11 A. Respondent failed to treat H[REDACTED]'s  
12 complaint conservatively before resorting to surgical interven-  
13 tion.

14 B. Respondent told the patient the tumor on his  
15 pelvis was cancerous when in truth and in fact, respondent knew  
16 or should have known the tumor was benign.

17 C. Respondent failed to perform appropriate  
18 preoperative tests.

19 D. During surgery, respondent failed to locate  
20 and remove the tumor and in fact removed a portion of the  
21 ischium.

22 E. Respondent, during surgery, caused a fracture  
23 of the pubic ramus, injury to the pudendal nerve and injury to  
24 the hamstring.

25 F. Respondent failed to advise and attempted to  
26 conceal from H[REDACTED] the surgical errors described above.

27 As a result, respondent is subject to discipline.

1 11. Respondent's conduct as described in paragraph 10  
2 above is incompetence and a cause for discipline.


3 12. Respondent's representations to H [REDACTED] that the  
4 tumor was cancerous and needed to be removed and his failure to  
5 advise his patient of the surgical errors described above is  
6 dishonesty in violation of section 2234(e) and a cause for  
7 discipline.

8 WHEREFORE, complainant prays the Division hold a  
9 hearing on the aforementioned allegations and following said  
10 hearing:

11 1. Suspend or revoke respondent's certificate;  
12 and

13 2. Take such other action as may be necessary  
14 to protect the public health, safety and welfare.

15 Dated: July 6, 1983

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17   
18 VERNON LEEPER  
19 Program Manager--Enforcement  
20 Division of Medical Quality  
21 Board of Medical Quality Assurance  
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